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DEPARTMENT OF EDUCATION

34 CFR Parts 611, 614, 636, 649, 680, 693, and 695-699

RIN 1840-AD32; 1840-AD33

Outdated Regulations--Teacher Quality Enhancement Grants Program and Preparing Tomorrow's Teachers to Use Technology (PT3) Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary removes outdated regulations for two programs no longer authorized by Federal law: the Teacher Quality Enhancement Grants (TQE) program and the Preparing Tomorrow's Teachers to Use Technology (PT3) program. Therefore, the associated regulations are unnecessary.

DATES: This action is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

On February 24, 2017, President Trump signed Executive Order 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. Section 3(a) of the Executive order directed each Federal agency to establish a Regulatory Reform Task Force, the duty of which is to evaluate existing regulations and "make recommendations to the agency head regarding their repeal, replacement, or modification." Section 3(d)(ii) of the Executive order specifically instructs the Task Force to identify regulations that are "are outdated, unnecessary, or ineffective." The Department is undertaking this regulatory action consistent with that objective.

The TQE and PT3 programs are no longer authorized by the Higher Education Act of 1965, as amended (HEA). Pursuant to the Higher Education Opportunity Act (Pub. L. 110-315) enacted in 2008, these programs were replaced. The TQE program was replaced with the Teacher Quality Partnership program, and the PT3 program was replaced with

the Preparing Teachers for Digital Age Learners program. Neither new program uses the regulations from the replaced programs. Accordingly, the Secretary removes 34 CFR parts 611 and 614 because they are obsolete. The Secretary also removes parts 636, 649, 680, 693, and 695-699, which had been reserved, to streamline the Department's regulations.

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (5 U.S.C. 553) (APA) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b) (B) and (d) (3)). There is good cause to waive rulemaking in this case because these final regulations have become obsolete. This regulatory action adopts no new regulations and does not establish or affect substantive policy. Therefore, under 5 U.S.C. 553(b) (B), the Secretary has determined that obtaining public comment on the removal of the regulations is unnecessary.

The APA also generally requires that regulations be published at least 30 days before their effective date,

unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because this final regulatory action merely removes outdated regulations, the Secretary is also waiving the 30-day delay in the effective date of these regulatory changes under 5 U.S.C. 553(d)(3).

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2018, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions, unless required by law or approved in writing by the Director of the OMB. Because this final rule is not a

significant regulatory action, the requirement to offset new regulations in Executive Order 13771 does not apply.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final regulatory action only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. Because the rescinded regulations are obsolete, we do not believe that this action will result in any additional costs or benefits.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 601(2), the Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the

objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

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List of Subjects

34 CFR Part 611

Colleges and universities, Elementary and secondary education, Grant programs-education.

34 CFR Part 614

Grant programs-education, colleges and universities.

Dated: October 10, 2018.

Diane Auer Jones,
*Principal Deputy Under Secretary
Delegated to Perform the Duties of
Under Secretary and
Assistant Secretary for the Office
of Postsecondary Education.*

For the reasons discussed in the preamble, and under the authority at 20 U.S.C. 3474 and 20 U.S.C. 1221e-3, the Secretary amends chapter VI of title 34 of the Code of Federal Regulations as follows:

PART 611—[Removed]

1. Part 611 is removed.

PART 614—[Removed]

2. Part 614 is removed.

PART 636 [Removed]

3. Reserved part 636 is removed.

PART 649 [Removed]

4. Reserved part 649 is removed.

PART 680 [Removed]

5. Reserved part 680 is removed.

PART 693 [Removed]

6. Reserved part 693 is removed.

PARTS 695-699 [Removed]

7. Reserved parts 695-699 are removed.

[FR Doc. 2018-22413 Filed: 10/15/2018 8:45 am; Publication Date: 10/16/2018]